

## REMARKS

In the previous Preliminary Amendment, claim 1 was amended to call for the software package including instructions to install said software package. The latest office action indicates, in paragraph 3, that the inclusion of software instructions to install the software package is inherent. It is believed that it is agreed that there is nothing in the cited Sheppard reference which talks in any way about how any software package received by a receiving unit is installed.

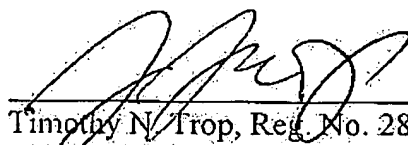
In order to be inherent, the reference must necessarily perform in the claimed way. See M.P.E.P. § 2112. Thus, if there is any other reasonable way to implement the software package, it cannot be inherent that Sheppard operates in the claimed way.

In fact, there are several alternatives to the claimed way. For example, in Sheppard, the user may receive an indication that the software package has arrived and may then choose to implement the software package and to install it or not, as the user sees fit. For example, the user might get a number of software packages and may make the conscience decision to install or not install those packages as the user sees fit. As still another reasonable alternative, the system could subsequently send installation instructions at a predetermined time in order to cause the package to be installed.

Thus, it is respectfully submitted that the claimed limitation of including instructions in the software package to install the package cannot possibly be inherent. For this reason, reconsideration is respectfully requested.

Respectfully submitted,

Date: November 30, 2004



---

Timothy N. Trop, Reg. No. 28,994  
TROP, PRUNER & HU, P.C.  
8554 Katy Freeway, Ste. 100  
Houston, TX 77024  
713/468-8880 [Phone]  
713/468-8883 [Fax]